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ABSTRACT

To foster a better understanding of student rights and responsibilities among school personnel and students and to develop understanding that will contribute to the realization of an equal educational opportunity for all students, this bibliography presents a representative sampling of legal, educational, and general education materials. Its 22 major categories include due process, corporal punishment, compulsory attendance, special education, student records, police in schools, searches, pregnant students, married students, tracking, free education, publication and distribution of literature, symbolic expression, dress and grooming, student demonstrations, religious and patriotic gestures, freedom of association, freedom of speech, academic freedom, arbitrary rules, discrimination in extra-curricular activities, and outside speakers, visitors, and use of school facilities. (Author/DW)

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A
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PREFACE

For the Program for Educational Opportunity the project presented herein was performed pursuant to a contract (OEC 5-73-0068) with the Office of Education, Department of Health, Education and Welfare. However, the content and opinions expressed herein do not necessarily reflect the position or policy of the United States Office of Education and no endorsement should be inferred.

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For the Saginaw Student Rights Center the materials presented herein were developed pursuant to a grant (OEO 50580) from the Office of Economic Opportunity. However, the content and opinions expressed herein do not necessarily reflect the position or policies of the Office of Economic Opportunity and no endorsement should be inferred.

Please address inquiries to:

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The Saginaw Student Rights Center is sponsored jointly by the Saginaw County Community Action Committee and the Saginaw Community Affairs Department. The Center began operation in August of 1972 with funding from the Office of Economic Opportunity and the Community Affairs Department of the Saginaw Diocese of the Catholic Church. Since that time the Center has been active in developing and disseminating information about student rights as well as assisting students and parents with individual problems. The Center has also been involved in conducting training programs for students and parents designed to provide them with basic skills for problem solving in the schools. The Program Director is Junious Williams; the Assistant Director is Van Hindes.

One of the most difficult problems involved in assuring the protection of students' rights is that of informing the educational community that students do have rights. We hope that this bibliography will assist educators and attorneys in locating the information necessary to make informed and knowledgeable decisions in the area of student rights and responsibilities.

Additional materials in the area of student rights and responsibilities are available upon request.

For further information please contact:

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The Program for Educational Opportunity (PEO) at the University of Michigan School of Education is a Desegregation General Assistance Center funded under a contract with the Office of Education, Department of Health, Education and Welfare. The Program provides technical assistance to school districts in the State of Michigan that are confronted with various problems incident to desegregation. Assistance available includes staff and organizational development programs, consultive assistance, resource materials, and research services.

One of the most prevalent problems encountered by the PEO is conflict concerning student rights and responsibilities in the secondary schools. This conflict has particularly onerous consequences in the newly desegregated school. This is reflected by the gross disparity in the rate at which minority students are suspended and expelled from school as compared to their white counterparts.

In the interest of fostering a better understanding of student rights and responsibilities among school personnel and students and with the hope that the understanding will contribute to the realization of an equal educational opportunity for all students, the Program for Educational Opportunity joins in presenting this bibliography. This bibliography, as well as other materials on student rights and equal educational opportunity, may be obtained by writing the PEO Resource Center.

For further information please contact:

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ERRATA

Page 30 under Applicable Statutes reads "M.C.L.A. 340.1007." Should read "R340.1007" to denote administrative rule.

Page 41 under Appeals Courts reads "Plazzola." Should read "Piazzola."

Page 48 under State Courts reads "Mesick Controlled." Should read "Mesick Consolidated."

INTRODUCTION

As our work progressed towards completion of this bibliography, we arrived at two basic conclusions. First, that the volume of information available in the area is voluminous. And second, that the development of an exhaustive or comprehensive bibliography is a near impossibility. Consequently we make no claims as to the exhaustiveness of the bibliography. Suffice it to say that this bibliography is a representative sampling of the legal, educational and general literature in the area.

Although we were initially pleased with the amount of information available, the volume was ultimately productive of serious formating difficulties. We hope that the present format is easily understandable and will aid in the use of the bibliography as a research tool. But just in case, here is a short explanation.

The bibliography contains twenty-two major categories. Each major category is identified with a Roman Numeral and a few descriptive words (e.g., I. DUE PROCESS). Immediately below this is the citation of cases or articles we feel are especially worthwhile. These are designated "SELECTED MATERIALS". Additionally we have included "APPLICABLE STATUTES" and "ATTORNEY GENERAL OPINIONS" from the State of Michigan because it is the service area for both of the programs contributing to this publication.

Following this general information, each major category has been divided into subcategories which represent areas directly related to the topic of the major category. These are identified with alphabet and a few descriptive words (e.g., A. RIGHT TO A HEARING). Each subcategory contains citations for judicial decision (federal and state courts), as well as legal, educational, and general literature.

The final note concerns major category "XX. VAGUE, UNCERTAIN, OVERBROAD, AND ARBITRARY RULES." The Descriptive words following the alphabetical designations of the subcategories refer to vague, uncertain, overbroad, and arbitrary rules in that specific category. For example, the descriptive words for category XX, subcategory A is Due Process. Materials found under that heading will pertain to vague, uncertain, overbroad, and arbitrary due process rules.

J.W.
July 9, 1974

I. DUE PROCESS

SELECTED MATERIALS

Buss, William, G. Procedural Due Process for School Discipline: Probing the Constitutional Outline, 119 U. Pa. L. Rev. 545 (1971).

APPLICABLE STATUTES

Indiana Public Laws 162 section 1 p. 806.

Michigan Compiled Laws Annotated 340-613.

ATTORNEY GENERAL OPINIONS

(1970) Mich. Att'y Gen. Biennial Rep. at 156.

(1960) Mich. Att'y Gen. Biennial Rep. at 114.

A. RIGHT TO A HEARING

Cases

Appeals Courts

Lance v. Thompson, 432 F. 2d 767 (4th Cir. 1970).

Dixon v. Alabama Board of Education, 249 F. 2d 150 (5th Cir. 1961).

Williams v. Dade County, 441 F. 2d 229 (5th Cir. 1971).

Jones v. Tennessee Board of Education, 407 F. 2d 834 (6th Cir. 1968).

District Courts

Baker v. Downey City Board of Education, 307 F. Supp. 517 (C.D. CA 1969).

Cooley v. Board of School Commissioners of Mobile County, 341 F. Supp. 1375 (S.D. AL 1972).

Davis v. Ann Arbor Public Schools, 313 F. Supp. 1217 (E.D. MI 1970).

Grayson v. Malone, 311 F. Supp. 987 (D. MA 1970).

Jackson v. Hepinstall, 328 F. Supp. 1104 (N.D. NY 1971).

Marzette v. McPhee, 294 F. Supp. 562 (W.D. WI 1968).

Tillman v. Dade County School Board, 327 F. Supp. 927 (S.D. FL 1971).

Vail v. Board of Education of Portsmouth, 354 F. Supp. 592 (D. NH 1973).

Williams v. Vermillion Parish Board, 345 F. Supp. 57 (W. D. LA 1972).

State Courts

R.R. v. Board of Education of Shore Regional High School District, 109 NJ Supp. 337 (1970).

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Legal

Angerman and Smith, Constitutional Defenses to a School Discipline Case, 17 Prac. Law 45 (April 1971).

Boone, Expulsion in California Public High Schools-Due Process a Decade After Dixon, 8 San Diego L. Rev. 333 (1971).

Constitutional Law-Right to Counsel-Student Held Entitled to Counsel at Public School Disciplinary Hearing, 42 NY U.L. Rev. 961 (1967).

Due Process in Public Colleges and Universities-Need for Trial -Type Hearings, 13 Howard L.J. 414 (1967).

Suspension of Student Pending Disciplinary Hearing, 2 Texas Tech. L. Rev. 271 (Spring 1971).

Educational

Jacobson, S. "Expulsion of Students and Due Process of Law; The Right to Judicial Review." Journal of Higher Education, 34 (May 1963): 250-255.

B. HEARING BEFORE IMPARTIAL PARTY

Cases

Appeals Courts

Wasson v. Trowbridge, 382 F. 2d 807 (2nd Cir. 1967).

Sill v. Pennsylvania State University, 462 F.2d 463 (3rd Cir. 1972).

Dixon v. Alabama Board of Education, 294 F. 2d 150 (5th Cir. 1961).

Sullivan v. Houston, 475 F. 2d 1071 (5th Cir. 1973).

District Courts

Student Association of the State University of New York v. Toll, 332 F. Supp. 455 (E.D. NY 1971).

C. WRITTEN NOTICE OF CHARGES

Cases

Appeals Courts

Pervis v. LaMarque Independent School District, 466 F. 2d 1054 (5th Cir. 1972).

District Courts

Davis v. Ann Arbor Public Schools, 313 F. Supp. 1217 (E.D. MI 1970).

DeJesus v. Pennberthy, 344 F. Supp. 70 (D. CT 1972).

Kelly v. Metro County Board of Education Nashville, 293 F. Suppl 485 (M.D. TN 1968).

Knight v. State Board of Education, 200 F. Supp. 174 (M.D. TN 1969).

Lafferty v. Carter, 310 F. Supp. 465 (W.D. WI 1970).

Marzette v. McPhee, 294 F. Supp. 562 (W.D. WI 1968).

Pierce v. School Commission of New Bedford, 322 F. Supp. 957 (D. MA 1971).

Stricklin v. Regents of University of Wisconsin, 297 F. Supp. 416 (W.D. WI 1969).

Vought v. VanBuren, 306 F. Supp. 1388 (E.D. Mich. 1969).

Periodical Literature

Legal

Angerman, Constitutional Defenses to a School Discipline Case, 17 Prac. Law 45 (April 1971).

Educational

Hague, "Law and Student Dismissal Procedures," Educational Record, 47 (1966): 518-524.

D. ADEQUATE NOTICE OF HEARING DATE

Cases

Appeals Courts

Dixon v. Alabama, 294 F.2d 150 (5th Cir. 1961).

Wright v. Texas Southern University, 392 F.2d 728 (5th Cir. 1968).

District Courts

Davis v. Ann Arbor Public Schools, 313 F. Supp. 1217 (E.D. MI 1970).

Esteban v. Central Missouri State College, 277 F. Supp. 649 (W.D. MO 1967).

E. KNOWLEDGE OF WITNESSES AND EVIDENCE

Cases

Appeals Courts

Dixon v. Alabama, 294 F. 2d 150 (5th Cir. 1961).

District Courts

Esteban v. Central Missouri State College, 277 F. Supp. 649 (W.D. MO 1967).

F. RIGHT TO PRESENT A DEFENSE

Cases

Appeals Courts

Dixon v. Alabama, 294 F. 2d 150 (5th Cir. 1961).

District Courts

DeJesus v. Penberthy, 344 F. Supp. 70 (D. CT 1972).

Esteban v. Central Missouri State College, 277 F. Supp. 649 (W.D. MO 1967).

G. RIGHT TO COUNSEL

Cases

Appeals Courts

Madera v. Board of Education of City of New York, 386 F. 2d 778 (2nd Cir. 1967).

District Courts

Baker v. Hardway, 283 F. Supp. 228 (S.D. W. VA 1968).

French v. Bashful, 303 F. Supp. 1332 (E.D. LA 1969).

U.S. v. Weller, 309 F. Supp. 50 (N.D. CA 1969).

State Courts

Cosme v. Board of Education of New York, 270 N.Y.S. 2d 231 (1966).

Kelley v. Martin, 10 Ariz. App. 7, 490 (1971).

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Legal

Constitutional Law - Due Process Does Not Require That a Student Be Afforded the Right to Counsel At a Public School Suspension Hearing, 22 Rutgers L. Rev. 342 (1968).

Frey, Right of Counsel in Student Disciplinary Hearings, 5 Val. L. Rev. 48 (1970).

Right to Counsel - Student Held Entitled to Right to Counsel at Public School Disciplinary Hearing, 42 N.Y.U. L. Rev. 961 (1967).

Thierstein, The College Student and Due Process in Disciplinary Proceedings, 13 S.D. L. Rev. 87 (1968).

H. RIGHT TO CROSS EXAMINE WITNESSES

Cases

Appeals Courts

Dixon v. Alabama, 294 F. 2d 150 (5th Cir. 1961).

District Courts

Esteban v. Central Missouri State College, 277 F. Supp. 649 (W.D. MO 1967).

State Courts

Kelley v. Martin, 10 Ariz. App. 7 (1971).

Tibbs v. Board of Education of Franklin Township, 284 A 2d 179 (NJ S. Ct. 1971).

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Angerman and Smith, Constitutional Defenses to a School Discipline Case, 17 Prac. Law 45 (April 1971).

School and School Districts - Due Process - Rights of Confrontation and Cross-Examination Accorded to Students at Expulsion Hearings, 3 Seton Hall L. Rev. 523 (Spring 1972).

Thierstein, The College Student and Due Process in Disciplinary Proceedings, 13 S.D. L. Rev. 87 (1968).

I. TRANSCRIPT OR RECORD OF HEARING

Cases

Appeals Courts

Dixon v. Alabama, 294 F. 2d 150 (5th Cir. 1961).

District Courts

Esteban v. Central Missouri State College, 277 F. Supp. 649 (W.D. MO 1967).

J. WRITTEN DECISION

Cases

District Courts

Esteban v. Central Missouri State College, 277 F. Supp. 649 (W.D. MO 1967).

K. APPEAL

Cases

Appeals Courts

Barker v. Hardway, 399 F. 2d 639 (4th Cir. 1968).

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Legal

Boone, Expulsion in California Public High Schools - Due Process a Decade After Dixon 8 San Diego L. Rev. 333 (1971).

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Krislov, "Academic Violations: A Study of One Universities Appeals Procedure." NASPA Journal 9 (January 1972): 215-218.

Pierce, W.D. "Who Did What, When and Why?" School Management 15 (December 1971): 32-34.

L. RIGHT OF HEARING BEFORE REMOVAL

Cases

Appeals Courts

Black Students of North Meyers Junior-Senior High School v. Williams, 470 F. 2d 957 (5th Cir. 1972).

Jackson v. Dorrier, 424 F. 2d 213 (6th Cir. 1970).

District Courts

Fielder v. Board of Education of Winnebago in Thuston County Nebraska, 346 F. Supp. 722 (D. NB 1972).

Graham v. Houston Independent School District, 355 F. Supp. 1164 (S.D. TX 1970).

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M. SELF-INCRIMINATION

Cases

Supreme Court

Spevak v. Klein, 385 U.S. 511 (1967).

District Courts

Furutani v. Ewigleben, 297 F. Supp. 1163 (N.D. CA 1969).

N. EXHAUSTION OF ADMINISTRATIVE REMEDIES

Cases

Supreme Court

McNeese v. Board of Education, 373 U.S. 668 (1962).

District Courts

Boyo v. Smith, 353 F. Supp. 844 (S.D. IN 1973).

Cook v. Edwards, 341 F. Supp. 307 (D. NH 1972).

Griffin v. DeFelice, 325 F. Supp. 143 (E.D. LA 1971).

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Legal

Frels, Kelly Exhaustion of the Educational Institutions Remedies, NOLPE School Law Journal 1 (Spring 1971): 3-19.

O. WRITTEN RULES AND PRIOR KNOWLEDGE OF RULES

Cases

Appeals Courts

Farrell v. Joel, 437 F. 2d 160 (2nd Cir. 1971).

Betts v. Board of Education City of Chicago, 466 F. 2d 629 (7th Cir. 1972).

District Courts

Hasson v. Boothby, 318 F. Supp. 1183 (D. MA 1970).

Hobson v. Bailey, 309 F. Supp. 1393 (W.D. TN 1970).

State Courts

Canney v. Board of Public Instruction, 131 So. 2d 34 (FL App. 1970).

P. PUNISHMENT OTHER THAN SUSPENSION

Cases

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Q. SHORT TERM SUSPENSIONS

Cases

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R. EVIDENCE

Cases

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Wolf v. Colorado, 338 U.S. 25 (1949)

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General Order on Student Discipline in Tax Supported Institutions of Higher Education, 45 F.R.D. 133 (W.D. MO 1968).

Whitfield v. Simpson, 312 F. Supp. 889 (E.D. IL 1970).

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S. GENERAL DUE PROCESS

Cases

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Woods v. Wright, 334 F. 2d 369 (5th Cir. 1964).

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